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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,386

12/27/2005

Yung Ho Kim

2017-56

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11/20/2006

IPLA P.A.

3580 WILSHIRE BLVD.

17TH FLOOR

LOS ANGELES, CA 90010

EXAMINER

SINGH, JASVEER

ART UNIT

PAPER NUMBER

3772

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/562,386

Applicant(s)

KIM, YUNG HO

Examiner

Jasveer Singh

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/27/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file, received 12/27/2005.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: Page 3, Paragraph 21 contains a spelling error in the fifth line of the paragraph, last word. "fame" should be corrected so that it is spelled "frame".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The limitations of semi-ring part, crook-part, and connection part are not described in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, ~~second paragraph~~, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "nose back" is indefinite. Also, "groove part" appears to be defined twice in the claim so it is indefinite as it is unknown whether the second instance of the limitation is meant to be different from the first instance it is used. Also, the term "etc." is used twice in the claim, which makes it indefinite. Finally, Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim does not give a definite structure of the settling unit. Also, it is indefinite as to what applicant is indicating to claim as part of the settling unit:

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the subcombination of the settling unit of the combination of the settling unit and the mask.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goyena (US 1,914,418) in view of Koehler (US 2,251,139) and Zucker (US 2004/0116019).

Goyena discloses a support frame (A) that is installed between an end of a nose, including an intermediate portion of an upper lip (Figure 1), wherein both sides are bent about a center for thereby covering nose holes and both ends of the same are bent in one direction and are closely contacted with the back of the nose, the support frame has a wing part (16) (Seen in Figure 2); a filter part (18) that is combined with the support frame (A) and has a receiving pocket (28) with fine holes. The receiving pocket (28)

with fine holes is capable of storing certain health assistant material such as silver fiber, tourmaline particle, etc. are intended use recitations. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987). The receiving pocket (28) with fine holes is fully capable of performing the mentioned intended use recitations.

Goyena does not disclose the filter part (18) as being formed of nano fiber material to purify air inhaled through the nose.

However, Zucker teaches that the use of nano-fiber fabrics for filtration media (Summary of the Invention, [0003] and [0006]) significantly improves the overall barrier performance of compound industrial fabrics (Background of the Invention, [0005], lines 1-5).

Therefore, it would have been obvious, to one having ordinary skill in the art, to modify the gauze material of the filter of Goyena with the nano-fiber material as taught by Zucker, as such a modification would significantly improve the overall barrier or filter performance.

Goyena and Zucker do not disclose a mask having a settling unit that includes a semi-ring part that is downwardly bent in an oval shape from both ends of the semi-ring part and contracts with a lower side of the nose and is extended thereby a connection part that is extended from both ends of the crook part and is extended from both ends of the crook part and is extended horizontally in the direction of the semi-ring part and is

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connected to a groove part formed in a rectangular shape at both ends of the connection part, so that the combined body of the support frame and the filter part is installed firmly in the nose.

However, Koehler teaches a settling unit (Figure 4) that includes a semi-ring part (12) that is inserted into the nose holes about the wall between the nose holes (Description, Right Column, Lines 24-32), a crook part that is downwardly bent in an oval shape (13) from both ends of the semi-ring part and contacts with a lower side of the nose and is engaged thereby a connection part (17) that is extended from both ends of the crook part and is extended horizontally in the direction of the semi-ring part (Figure 3) and is connected to a groove part (grooves can be seen next to connection part (17) in Figure 4) that is rectangular in shape at both ends, and a nasal filter formed of coiled wire made of stainless steel or silver, which both possess magnetic characteristics (Description, Right Column, Lines 10-15). Therefore, the coils of Koehler are fully capable of being a magnet attached to the groove part for fixing the support frame (A), as the dictionary defines the term to mean "something that attracts," (www.m-w.com). It is well known in the art that stainless steel and silver have magnetic properties, see <http://www.azom.com/details.asp?ArticleID=1140> for such evidence.

Therefore, it would have been obvious, to one of ordinary skill in the art at the time of the invention, to modify the nasal filter of Goyena to include the settling unit as taught by Koehler in order to provide a means for holding the support frame and filter part in place while it is being used by a person.

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As to **claim 2**, Goyena as modified by Zucker and Koehler do not teach an assistant receptacle with fine holes on the surface, or tourmaline source stones, or tourmaline ceramic balls that is inserted into or attached to the crook part (13 – Koehler) of the settling unit (Figure 4 – Koehler).

However, Park teaches a receptacle (22) with fine holes on the surface (24) (Figure 3) and a tourmaline-based mineral as the material to be placed inside of the receptacle (22). A stone is a type of mineral so Park teaches the limitation of a tourmaline source stone. Park teaches that the mineral is used to make the human body alkaline and to promote blood circulation, thereby activating cellular functions and metabolism of the body ((Page 2, Para [0025])). In addition, the receptacle (22) taught by Park is fully capable of being attached to the crook part (13) of Koehler, particularly by means of hooking loops (11) of Park (Figure 2) onto the crook part (13).

Therefore, it would have obvious, to one of ordinary skill in the art at the time of the invention, to modify the combined device of Goyena as modified by Zucker and Koehler to include the receptacle with fine holes on its surface and tourmaline source stones as taught by Park, as such a modification would result in enhanced human body cellular functions and metabolism.

As to **claim 3**, the device of Goyena, Zucker, and Koehler disclose the wing part (16) of the support frame (A) is designed in such a manner that the wing part (16) of both sides of the same is folded and has a hinge function (10) (Figures 1-5) for thereby enhancing a pressure adjusting function, as shown by the device of Goyena.


As to **claim 4**, Goyena as modified by Koehler teach that the settling unit (Figure 4 – Koehler) is separated from the filter body, as it would need to be, since the settling unit is detached from the filter body before it is attached to the filter body in order for it to serve its purpose of supporting the filter body in place in a person's nose.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasveer Singh whose telephone number is (571) 272-5508. The examiner can normally be reached on M-F (9am - 6pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


11/13/02